

Executive Summary – Enforcement Matter – Case No. 42514
Heather McD, Ltd. [Formerly CHEM-PRUF DOOR CO., LTD.] dba Chem-Pruf
Door
RN100244433
Docket No. 2011-1648-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Chem-Pruf Door, 5224 Farm-To-Market Road 802, Brownsville, Cameron County

Type of Operation:

Door manufacturing and coating plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 13, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$10,200

Amount Deferred for Expedited Settlement: \$2,040

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$8,160

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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Pruf Door
RN100244433
Docket No. 2011-1648-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 21, 2011

Date(s) of NOE(s): August 18, 2011

Violation Information

1. Failed to include all deviations on an annual compliance certification ("ACC"). Specifically, the ACC for the January 2, 2010 through January 1, 2011 certification period did not include exceedances of the emission rates for volatile organic compounds and acetone from the Gelcoat Room Vent [30 TEX. ADMIN. CODE § 122.146(5)(C), Federal Operating Permit ("FOP") No. O2418 General Terms and Conditions ("GTC"), and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to timely and accurately report all deviations. Specifically, the semi-annual deviation report for the July 1, 2010 through December 31, 2010 reporting period was not submitted until June 23, 2011 and did not include all instances of deviation for the time period [30 TEX. ADMIN. CODE § 122.145(2)(A) and (C), FOP No. O2418 GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b)].
3. Failed to submit the semi-annual deviation report for the period of January 1, 2010 through June 30, 2010 [30 TEX. ADMIN. CODE § 122.145(2)(B), FOP O2418 GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - i. Implement measures and procedures designed to ensure that ACCs are submitted timely and accurately; and
 - ii. Implement measures and procedures designed to ensure that semi-annual deviation reports are submitted timely and accurately.
- b. Within 45 days, submit written certification demonstrating compliance.

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RN100244433
Docket No. 2011-1648-AIR-E

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Heather Podlipny, Enforcement Division,
Enforcement Team 4, MC 149, (512) 239-2603; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Mary Chapa, Controller, Heather McD, Ltd. [Formerly CHEM-PRUF
DOOR CO., LTD.], P.O. Box 4560, Brownsville, Texas 78523
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	22-Aug-2011	Screening	14-Sep-2011	EPA Due	
	PCW	14-Sep-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	Heather McD, Ltd. [Formerly CHEM-PRUF DOOR CO., LTD.] dba Chem-Pruf Door		
Reg. Ent. Ref. No.	RN100244433		
Facility/Site Region	15-Harlingen	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	42514	No. of Violations	3
Docket No.	2011-1648-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Allison Fischer
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	36.0%	Enhancement	Subtotals 2, 3, & 7	\$2,700
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Notes: Enhancement for three NOV's with same/similar violations, one NOV with dissimilar violations and one order with denial of liability. Reduction for one Notice of Intended Audit.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$100
Approx. Cost of Compliance \$1,500
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,200
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$10,200
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,200
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DEFERRAL	20.0%	Reduction	Adjustment	-\$2,040
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$8,160
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Screening Date 14-Sep-2011

Docket No. 2011-1648-AIR-E

PCW

Respondent Heather McD, Ltd. [Formerly CHEM-PRUF

DOOR CO., LTD.] dba Chem-Pruf Door

Policy Revision 2 (September 2002)

Case ID No. 42514

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100244433

Media [Statute] Air

Enf. Coordinator Allison Fischer

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	3	15%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government		0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 36%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for three NOVs with same/similar violations, one NOV with dissimilar violations and one order with denial of liability. Reduction for one Notice of Intended Audit.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 36%

Screening Date 14-Sep-2011

Docket No. 2011-1648-AIR-E

PCW

Respondent
Case ID No. 42514Heather McD, Ltd. [Formerly CHEM-PRUF DOOR CO., LTD.]
dba Chem-Pruf Door

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100244433

Media [Statute] Air

Enf. Coordinator Allison Fischer

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 122.146(5)(C), Federal Operating Permit ("FOP") No. 02418 General Terms and Conditions ("GTC"), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to include all deviations on an annual compliance certification ("ACC"). Specifically, the ACC for the January 2, 2010 through January 1, 2011 certification period did not include exceedances of the emission rates for volatile organic compounds and acetone from the Gelcoat Room Vent.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

226 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

One single event is recommended for the one deficient certification.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$29

Violation Final Penalty Total \$3,400

This violation Final Assessed Penalty (adjusted for limits) \$3,400

Economic Benefit Worksheet

Respondent Heather McD, Ltd. [Formerly CHEM-PRUF DOOR CO., LTD.] dba Chem-Pruf Door

Case ID No. 42514

Reg. Ent. Reference No. RN100244433

Media Air

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	31-Jan-2011	1-Apr-2012	1.17	\$29	n/a	\$29
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated expense to implement measures and procedures to ensure that all ACCs are submitted completely and accurately. The Date Required is the date the ACC was due. The Final Date is the date that corrective actions are projected to be completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$29

Screening Date 14-Sep-2011

Docket No. 2011-1648-AIR-E

PCW

Respondent Heather McD, Ltd. [Formerly CHEM-PRUF DOOR CO., LTD.] dba

Case ID No. 42514

Policy Revision 2 (September 2002)

Reg. Ent. Reference No. RN100244433

PCW Revision October 30, 2008

Media [Statute] Air

Enf. Coordinator Allison Fischer

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 122.145(2)(A) and (C), FOP No. 02418 GTC, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to timely and accurately report all deviations. Specifically, the semi-annual deviation report for the July 1, 2010 through December 31, 2010 reporting period was not submitted until June 23, 2011 and did not include all instances of deviation for the time period.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	X		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

227 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$2,500

One single event is recommended for the one late and deficient report.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$29

Violation Final Penalty Total \$3,400

This violation Final Assessed Penalty (adjusted for limits) \$3,400

Economic Benefit Worksheet

Respondent Heather McD, Ltd. [Formerly CHEM-PRUF DOOR CO., LTD.] dba Chem-Pruf Door

Case ID No. 42514

Reg. Ent. Reference No. RN100244433

Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$500	30-Jan-2011	1-Apr-2012	1.17	\$29	n/a	\$29
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated expense to implement measures and procedures to ensure that all deviations are timely and accurately reported in the semi-annual deviation reports. The Date Required is the date the deviation report was due. The Final Date is the date that corrective actions are projected to be completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$29

Screening Date 14-Sep-2011

Docket No. 2011-1648-AIR-E

PCW

Respondent

Heather McD, Ltd. [Formerly CHEM-PRUF DOOR CO., LTD.] dba

Policy Revision 2 (September 2002)

Case ID No.

42514

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100244433

Media [Statute]

Air

Enf. Coordinator

Allison Fischer

Violation Number

3

Rule Cite(s)

30 Tex. Admin. Code § 122.145(2)(B), FOP 02418 GTC, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit the semi-annual deviation report for the period of January 1, 2010 through June 30, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

411 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

One single event is recommended for the one missing report.

Good Faith Efforts to Comply

0.0%

Reduction

\$0

Extraordinary

Before NOV

NOV to EDPRP/Settlement Offer

Ordinary

N/A

x

(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$42

Violation Final Penalty Total \$3,400

This violation Final Assessed Penalty (adjusted for limits) \$3,400

Economic Benefit Worksheet

Respondent Heather McD, Ltd. [Formerly CHEM-PRUF DOOR CO., LTD.] dba Chem-Pruf Door

Case ID No. 42514

Req. Ent. Reference No. RN100244433

Media Air

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$500	30-Jul-2010	1-Apr-2012	1.67	\$42	n/a	\$42
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated expense to implement measures to ensure the proper reporting of deviations. The Date Required is the due date of the deviation report. The Final Date is the date that corrective measures are estimated to be completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$42

Compliance History

Customer/Respondent/Owner-Operator:	CN600132625 Heather McD, Ltd.	Classification: AVERAGE	Rating: 2.67
Regulated Entity:	RN100244433 Chem-Pruf Door	Classification: AVERAGE	Site Rating: 2.67
ID Number(s):	AIR OPERATING PERMITS AIR OPERATING PERMITS AIR OPERATING PERMITS AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS AIR EMISSIONS INVENTORY	ACCOUNT NUMBER PERMIT ACCOUNT NUMBER PERMIT ACCOUNT NUMBER AFS NUM ACCOUNT NUMBER	CD0215I 2418 CD0215T 19777A CD0215T 4806100087 CD0215T
Location:	5224 FARM-TO-MARKET ROAD 802, BROWNSVILLE, TX, 78526		
TCEQ Region:	REGION 15 - HARLINGEN		
Date Compliance History Prepared:	August 26, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	August 26, 2006 to August 26, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Allison Fischer	Phone:	(512) 239 - 2574

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 02/20/2011 ADMINORDER 2010-1123-AIR-E
 Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: NSR 19777A GC 8 OP
 Description: Failed to maintain the volatile organic compound ("VOC") and acetone emissions within the permitted annual emissions rates. Specifically, the annual VOC emissions rate for the Gelcoat Room Vent(Emission Point No. 5A) is 5.14 tons per year ("tpy"), and the Respondent released 7.38 tpy of VOCs in 2007, 7.30 tpy of VOCs in 2008, and 5.23 tpy of VOCs in 2009. In addition, the total permitted annual emissions rate for acetone is 27.50 tpy and 28.19 tpy was released in 2009.
- B. Any criminal convictions of the state of Texas and the federal government.

N/A
- C. Chronic excessive emissions events.

N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 09/29/2006 (514655)
 2 04/05/2007 (555926)
 3 05/31/2007 (562526)
 4 02/28/2008 (636846)
 5 08/31/2010 (722573)
 6 05/27/2009 (737426)
 7 06/21/2010 (798484)
 8 08/18/2011 (923482)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 06/04/2007 (562526)CN600132625
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.146(5)(C)
Description: Failure to address the required information indicating intermittent compliance status of the emission unit for which one or more deviations occurred over the certification period.

Date: 02/25/2008 (636846) CN600132625
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
Description: FAILURE TO MEET CONDIT
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.146(5)(C)
Description: Failure to address the required information indicating intermittent compliance status of the emission unit for which one or more deviations occurred over the certification period.

Date: 05/23/2009 (737426) CN600132625
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.144
Description: Failure to keep a record of all visible emissions observations conducted. Specifically, the entity failed to keep a record of visible emissions observations which are supposed to take place at least once during each calendar quarter. Mrs. Chapa stated that the entity intends on conducting a visible emissions observation once a month and will keep a record of these observations on a form.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382.085(b)
NSR 19777A GC 8 OP
Description: Failed to maintain the volatile organic compound ("VOC") and acetone emissions within the permitted annual emissions rates. Specifically, the annual VOC emissions rate for the Gelcoat Room Vent (Emission Point No. 5A) is 5.14 tons per year ("tpy"), and the Respondent released 7.38 tpy of VOCs in 2007, 7.30 tpy of VOCs in 2008, and 5.23 tpy of VOCs in 2009. In addition, the total permitted annual emissions rate for acetone is 27.50 tpy and 28.19 tpy was released in 2009.

Date: 08/30/2010 (722573) CN600132625
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(C)
Description: Failure to ensure that deviation reports shall be submitted no later than 30 days after the end of each reporting period.

F. Environmental audits.

Notice of Intent Date: 06/27/2011 (936451)
No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
HEATHER MCD, LTD.
[FORMERLY CHEM-PRUF DOOR
CO., LTD.] DBA CHEM-PRUF
DOOR
RN100244433

§ BEFORE THE
§
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2011-1648-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Heather McD, Ltd. [Formerly CHEM-PRUF DOOR CO., LTD.] dba Chem-Pruf Door ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a door manufacturing and coating plant at 5224 Farm-to-Market Road 802 in Brownsville, Cameron County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 23, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Ten Thousand Two Hundred Dollars (\$10,200) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eight Thousand One Hundred Sixty Dollars (\$8,160) of the administrative penalty and Two Thousand Forty Dollars (\$2,040) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to include all deviations on an annual compliance certification ("ACC"), in violation of 30 TEX. ADMIN. CODE § 122.146(5)(C), Federal Operating Permit ("FOP") No. O2418 General Terms and Conditions ("GTC"), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 21, 2011. Specifically, the ACC for the January 2, 2010 through January 1, 2011 certification period did not include exceedances of the emission rates for volatile organic compounds and acetone from the Gelcoat Room Vent.
2. Failed to timely and accurately report all deviations, in violation of 30 TEX. ADMIN. CODE § 122.145(2)(A) and (C), FOP No. O2418 GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 21, 2011. Specifically, the semi-annual deviation report for the July 1, 2010 through December 31, 2010 reporting period was not submitted until June 23, 2011 and did not include all instances of deviation for the time period.

3. Failed to submit the semi-annual deviation report for the period of January 1, 2010 through June 30, 2010, in violation of 30 TEX. ADMIN. CODE § 122.145(2)(B), FOP O2418 GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 21, 2011.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Heather McD, Ltd. [Formerly CHEM-PRUF DOOR CO., LTD.] dba Chem-Pruf Door, Docket No. 2011-1648-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order:
 - i. Implement measures and procedures designed to ensure that ACCs are submitted timely and accurately, in accordance with 30 TEX. ADMIN. CODE § 122.146; and
 - ii. Implement measures and procedures designed to ensure that semi-annual deviation reports are submitted timely and accurately, in accordance with 30 TEX. ADMIN. CODE § 122.145.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the

information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be

copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Jarein Jr.
For the Executive Director


5/16/12
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

12/5/11
Date

Mary Oraga
Name (Printed or typed)
Authorized Representative of
Heather McD, Ltd. [Formerly CHEM-PRUF DOOR CO., LTD.] dba Chem-Pruf Door

Controller
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.